

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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In the Matter of

Numbering Resource Optimization

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) CC Docket No. 99-200  
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To The Commission:

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REPLY COMMENTS OF VOICESTREAM WIRELESS CORPORATION

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### Summary

The comments that VoiceStream and other parties filed in response to the Further Notice of Proposed Rulemaking reflect a remarkable level of agreement about several key issues. First, nearly all of the commenters who addressed utilization thresholds – including state regulators and carriers from all industry segments – agree that the FCC should not rely solely upon specific percentage utilization thresholds to evaluate applications for growth codes. Specific percentage utilization thresholds would discriminate against certain groups of carriers, preventing them from receiving needed numbering resources. Given the flaws inherent in specific utilization thresholds, the overwhelming majority of commenters who addressed the issue urged the FCC instead to rely on MTE Worksheets in addition to, or in place of, specific percentage utilization thresholds. There is also wide agreement that a carrier should be entitled to growth codes when its MTE Worksheet demonstrates that it has a six-month or less inventory of numbering resources.

Rather than relying on MTE Worksheets as a “safety valve” to prevent harm caused by specific percentage utilization thresholds, VoiceStream urges the FCC to rely solely on MTE Worksheets. If MTE Worksheets are a critically necessary “safety valve” as the overwhelming majority of commenters agree, why utilize a specific percentage utilization threshold in the first place? The seriously flawed utilization thresholds would merely add an unnecessary administrative and adjudicative process that would interfere with the FCC’s numbering optimization efforts.

The comments also reflect widespread agreement that the FCC should focus on utilization levels at specific rate centers when determining eligibility for growth codes. Focus on utilization at the NPA-level or above would unfairly prevent carriers from obtaining genuinely needed numbering resources because a carrier might lack sufficient numbering resources in one part of an NPA despite having adequate numbering resources in another part of the same NPA.

Therefore, VoiceStream urges the FCC to focus on rate center-level MTE Worksheets when determining eligibility for growth codes.

Many commenters urge the FCC not to delegate to the states the authority to vary utilization thresholds or code assignment procedures, in part because the assignment of growth codes must be managed in a comprehensive manner at the Federal level and there is no compelling need to vary eligibility requirements on a state-by-state basis. Although some states ask the FCC for additional authority, none have provided any justification to support varying utilization rates from state-to-state. VoiceStream urges the FCC instead to rely on the proposed MTE Worksheet procedure to determine eligibility for growth codes, because MTE Worksheets, which can be applied on a non-discriminatory basis to all carriers throughout the nation, inherently reflect true need for numbers without complicated state-by-state variations.

Numerous commenters agree with VoiceStream that the FCC should not require CMRS carriers to participate in pooling immediately upon expiration of the LNP forbearance period. As VoiceStream and these commenters have demonstrated, flash-cut implementation will not significantly extend the life of the NANP but could result in network disruptions. Importantly, none of the commenters who support a flash-cut implementation explain why wireless carriers are not entitled to the same staggered implementation period as wireline carriers, or indeed why a staggered implementation period is not necessary or desirable. Similarly, none of these commenters have addressed the substantial risks that would arise from implementing pooling during the year-end holiday sales “quiet period” at the same time that all carriers will be working with both a new NANPA and National Pooling Administrator. Therefore, VoiceStream submits that, if the FCC still sees the need for wireless pooling, it should adopt a wireless transition plan that mirrors the wireline plan and begins no sooner than July 2003.

The comments reflect truly universal opposition to market-based number allocation schemes from all types of commenters, including state PUCs, ILECs, CLECs, wireless carriers and end users. The record demonstrates not only that the FCC lacks the statutory authority to adopt a market-based number allocation scheme, but also that such schemes would not improve the efficiency with which carriers utilize numbering resources. Perhaps more importantly, market-based number allocation schemes would introduce substantial new problems into the current system for numbering administration, and impose significant additional administrative burdens, costs that will be passed on to subscribers and insidious numbering arbitrage schemes, without appreciable public interest benefits.

Finally, the FCC should refuse to allow ILECs to subsidize their number pooling costs through interstate access charges. The record demonstrates that subsidization of ILEC number pooling costs through interstate access charges would not be competitively neutral, nor would it be consistent with the 1996 Act. It is particularly important that the FCC not fold the ILECs' number pooling costs into interstate access charges in light of the FCC's recent decision to adopt the Modified CALLS Proposal, which is intended to determine the appropriate level of interstate access charges and convert implicit subsidies in interstate access charges into explicit, portable and sufficient universal service support. VoiceStream therefore urges the FCC not to allow the ILECs to recover their costs of number pooling through interstate access charges.

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In the Matter of

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CC Docket No. 99-200

To The Commission:

**REPLY COMMENTS OF VOICESTREAM WIRELESS CORPORATION**

VoiceStream Wireless Corporation (“VoiceStream”), pursuant to the Commission’s *Further Notice of Proposed Rulemaking* (“*Further Notice*”),<sup>1</sup> hereby respectfully offers its reply comments in the above-captioned proceeding. Based on the record in this proceeding, VoiceStream urges the Commission to (1) rely on the proposed MTE Worksheet procedure rather than arbitrary percentage utilization thresholds to evaluate applications for growth codes, (2) focus on utilization levels at specific rate centers when determining eligibility for growth codes, (3) retain the FCC’s statutory authority over eligibility requirements for growth codes, (4) adopt a phased transition schedule for wireless implementation of number pooling that mirrors the schedule for wireline carriers and avoids the year-end holiday sales “quiet period” (as well as the confluence of the introduction of wireless number portability, a new Number Pooling Administrator, and possibly a new NANPA), (5) reject market-based number allocation schemes, and (6) refuse to allow ILECs to subsidize their number pooling costs through interstate access charges.

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<sup>1</sup> Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104 (released March 31, 2000) (hereinafter “*Report & Order*” or “*Further Notice*” depending on context).

**I. THE FCC SHOULD RELY ON THE PROPOSED MTE WORKSHEET PROCEDURE RATHER THAN ARBITRARY PERCENTAGE UTILIZATION THRESHOLDS TO EVALUATE APPLICATIONS FOR GROWTH CODES**

VoiceStream demonstrated in its comments that specific percentage utilization thresholds would discriminate against new entrants and smaller carriers, and might prevent carriers from obtaining growth codes when actually needed.<sup>2</sup> Like VoiceStream, nearly all of the commenters who addressed utilization thresholds – including state regulators and carriers from all industry segments – agree that the FCC should not rely solely upon specific percentage utilization thresholds to evaluate applications for growth codes.<sup>3</sup> These comments demonstrate that the specific percentage utilization thresholds are flawed, because the FCC cannot rely solely on these thresholds without discriminating against certain groups of carriers, jeopardizing their receipt of needed numbering resources.<sup>4</sup>

One of the main reasons why it is very difficult, if not impossible, to select a fair and appropriate percentage utilization threshold is that it cannot be based solely on a “target utilization rate.” Instead, a specific percentage utilization threshold would have to be based on two factors: (1) the length of time it takes from the moment that a carrier requests a code until all the other carriers on the Public Switched Telephone Network (“PSTN”) load the new code in their switches (ensuring that the code will be recognized in the network); and (2) the subscriber growth rate of the carrier that has requested the additional numbering resources. Although the first factor may be the same for all

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<sup>2</sup> See VoiceStream Comments at 6-13.

<sup>3</sup> See, e.g., Ad Hoc Comments at 3; AT&T Comments at 2, 5; BellSouth Comments at 3, 5-6; California PUC Comments at 5; Cox Comments at 3-5; CTIA Comments at 11; CompTel Comments at 2-6; GSA Comments at 3-6; GTE Comments at 7-9; Maine PUC Comments at 3-4; MediaOne Comments at 3-7; New Hampshire PUC Comments at 4; New York PSC Comments at 2; Nextel Comments at 3; PCIA Comments at 2-7; SBC Comments at 6-12; Sprint Comments at 2-4; U S West Comments at 5; USTA Comments at 2-3; Verizon Comments at 6-11; Winstar Comments at 2-6; WorldCom Comments at 1-3.

<sup>4</sup> See, e.g., *id.*

carriers under normal circumstances, the second factor varies carrier-by-carrier (in some cases dramatically). Thus, a “one-size-fits-all” utilization rate would not achieve FCC policy goals in the proceeding. In fact, it would foil the expansion of the most competitive carriers and benefit the least competitive carriers. Moreover, as VoiceStream has demonstrated, incumbent carriers with substantial existing inventories will easily be able to meet percentage utilization thresholds while new entrant competitors are jeopardized.<sup>5</sup>

Adding to the problems with establishment of specific percentage utilization thresholds is the definitional problem facing the FCC on what number categories to include or exclude when calculating percent utilization and the impact of that decision on the trigger value for new code requests. Many commenters have suggested that the FCC’s decision to include only numbers assigned to end users in the numerator of the percent utilization calculation is insufficient, and that the numerator should also include intermediate, reserved, aging and administrative allocations.<sup>6</sup> Some have argued that the percentage utilization threshold should be lowered to accommodate the business realities imposed by limiting the numerator to include only assigned numbers.<sup>7</sup>

In recognition of the flaws inherent in specific percentage utilization thresholds, the overwhelming majority of commenters who addressed the issue urged the FCC to rely on MTE Worksheets in addition to, or in place of, specific percentage utilization thresholds.<sup>8</sup> The record

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<sup>5</sup> See VoiceStream Comments at 6-10.

<sup>6</sup> See, e.g., ALTS Comments at 2-6; Bell Atlantic Comments at 7; CTIA Comments at 5-7; CompTel Comments at 4-5; PCIA Comments at 7-11; SBC Comments at 7-11; Sprint Comments at 5-8; Time Warner Comments at 3-5; U S West Comments at 3-5; USTA Comments at 3-4; Verizon Comments at 14-23; Winstar Comments at 6-9.

<sup>7</sup> See, e.g., *id.*

<sup>8</sup> See, e.g., California PUC Comments at 5; Cox Comments at 3-4; Maine PUC Comments at 3-4; MediaOne Comments at 3-7; New York PSC Comments at 2; Nextel Comments at 3; PCIA Comments at 6-7; Verizon Comments at 6-11; Winstar Comments at 4-6.



demonstrates that MTE Worksheets do not discriminate against any class of carriers or subscribers because they inherently allow for consideration of the multitude of factors that affect an individual carrier's need for additional numbering resources: Every carrier would be entitled to obtain additional numbering resources when its MTE Worksheet demonstrates that it has a six-month or less inventory of available numbering resources. In contrast to a specific percentage utilization threshold, an MTE Worksheet directly reflects the confluence of an individual carrier's growth rate, based both on actual historical data and documented growth projections, and the customary length of time between a request for a code and activation of that code throughout the network. Consequently, the proposed MTE Worksheet procedure is a far superior means for ensuring that carriers do not request additional numbering resources until necessary than specific percentage utilization thresholds.

Rather than relying on MTE Worksheets as a "safety valve" to prevent harm caused by specific percentage utilization thresholds, VoiceStream urges the FCC to rely solely on MTE Worksheets, as did Cox, GSA and Nextel in their comments.<sup>9</sup> Although the "safety valve" provides some assurance that a carrier who needs numbers has an alternative method to demonstrate its need, it adds an additional administrative and adjudicative process that simply is not needed. If MTE Worksheets are to be the ultimate test to determine eligibility for growth codes, why utilize the percent utilization threshold in the first place? The majority of parties who commented on MTE Worksheets agree with VoiceStream that a carrier should be entitled to additional numbering resources when its MTE Worksheet demonstrates that it has a six-month or less inventory of

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<sup>9</sup> See VoiceStream Comments at 6-13. See also, e.g., Cox Comments at 3-5; GSA Comments at 3-6; Nextel Comments at 3. Similarly, many commenters demonstrated that utilization thresholds, including those based on specific percentage utilization thresholds and MTE Worksheets, are unnecessary given the new numbering optimization measures the FCC adopted in the Report and Order. See, e.g., Comments of BellSouth at 3; Comments of CompTel at 2-6; Comments of PCIA at ii; Comments of Sprint at 2-3; Comments of Winstar at 2-3.

numbering resources.<sup>10</sup> As VoiceStream explained in its comments, it takes approximately three months from request date to implement a new code throughout the PSTN.<sup>11</sup> Thus, a six-month period would ensure that seasonal variations in sales, aggressive sales promotions and unexpected disruptions in PSTN switch updating during the time interval between the time that a carrier requests a new code and that code is recognized throughout the PSTN do not result in a carrier running out of numbers for its subscribers.

## **II. THE FCC SHOULD FOCUS ON UTILIZATION LEVELS AT SPECIFIC RATE CENTERS WHEN DETERMINING ELIGIBILITY FOR GROWTH CODES**

In its initial comments, VoiceStream urged the FCC to focus on utilization at the rate center-level, and only the rate center-level, when determining eligibility for growth codes.<sup>12</sup> Nearly all of the commenters who addressed the issue agree with VoiceStream that the FCC should not focus

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<sup>10</sup> See, e.g., AT&T Comments at 2, 5; Maine PUC Comments at 4; MediaOne Comments at 3-7; New Hampshire PUC at 4; PCIA Comments at 3-6; SBC Comments at 11; U S West Comments at 4, USTA Comments at 2-3, Winstar Comments at 4-6. VoiceStream opposes the suggestion of the California PUC, Cox and Sprint that carriers not be eligible to request a growth code until they have a three-month or less inventory of numbering resources because it would not allow a margin for seasonal and promotional sale surges and national or localized switch updating problems. Even slight variations in the forecast could result in a depletion of all numbering resources prior to the new code being available. See California PUC Comments at 5; Cox Comments at 3-4; Sprint Comments at 4. If the FCC subsequently shortens the interval between the time that a carrier requests a new code and that code is recognized throughout the PSTN, the FCC could consider adopting a three-month inventory requirement if necessary to reduce the total amount of numbers held in carriers' inventories. However, six months is the minimum acceptable timeframe under the current, and currently proposed, rules.

<sup>11</sup> See VoiceStream Comments at 7.

<sup>12</sup> See *id.* at 11-12.

on utilization at the NPA-level, or at any level above the rate center-level.<sup>13</sup> Their comments demonstrate that sound operational factors preclude carriers from using numbers from all the rate centers in an NPA. Thus, focus on utilization at the NPA-level or above would unfairly prevent carriers from obtaining genuinely needed numbering resources because a carrier might lack sufficient numbering resources in one part of an NPA despite having adequate numbering resources in another part of the same NPA.<sup>14</sup> The subscriber of a wireless carrier expects that a wireline call to its mobile number will be a local call. If the wireless carrier cannot offer an existing or potential subscriber a toll-free land to mobile call, then it can lose that subscriber to a wireline carrier who is able to provide a toll-free service. The availability, or lack thereof, of a telephone number in a particular calling area should not be the deciding factor in a potential subscriber's choice of carriers. For this reason, the comments reflect nearly unanimous agreement that the FCC should focus on the rate center-level when determining eligibility for growth codes.<sup>15</sup> Therefore, the suggestion that the FCC should focus on NPA-level utilization for wireless carriers is based on faulty assumptions. Instead, the FCC should focus on rate center-level utilization when determining eligibility for growth codes for all carriers.

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<sup>13</sup> See, e.g., Ad Hoc Comments at 3; ALTS Comments at 6; BellSouth Comments at 8; CompTel Comments at 5-6; GTE Comments at 4-5; Joint Comments of the Consumer Advocates at 6, 10-12; MediaOne Comments at 3-7; Nextel Comments at 3; Nextlink Comments at 4-6; PCIA Comments at 6-7; Sprint Comments at 8-9; USTA Comments at 4; Verizon Comments at 3-6; Winstar Comments at 9-10; WorldCom Comments at 3. Two commenters ask the FCC to focus on utilization at the NPA-level based on a mistaken belief that all wireless carriers utilize numbering resources throughout an NPA. See, e.g., California PUC Comments at 5-6; Time Warner Comments at 6.

<sup>14</sup> See, e.g., *id.*

<sup>15</sup> See, e.g., *id.*

### III. THE FCC SHOULD MAINTAIN ITS STATUTORY AUTHORITY OVER ELIGIBILITY REQUIREMENTS FOR GROWTH CODES

VoiceStream explained in its comments that the FCC should be the sole determiner of the eligibility requirements for growth codes.<sup>16</sup> Many of the comments similarly urge the FCC not to delegate to the states the authority to vary utilization thresholds or code assignment procedures, in part because the assignment of growth codes must be managed in a comprehensive manner at the Federal level and there is no compelling need to vary eligibility requirements on a state-by-state basis.<sup>17</sup>

Some of the states predictably ask the FCC for additional authority, but none have provided any justification to support varying utilization rates from state-to-state.<sup>18</sup> The only explanation that these states offer for state-by-state variations is a generic need to respond to local demand or other unspecified conditions.<sup>19</sup> Although VoiceStream fully agrees that several factors make it impossible to establish a fair “one-size-fits-all” utilization threshold, none of these factors vary on a state-by-state basis.<sup>20</sup> Rather than allow states to vary utilization thresholds on a state-by-state basis, VoiceStream urges the FCC to rely on the proposed MTE Worksheet procedure to determine eligibility for growth codes, because MTE Worksheets, which can be applied on a non-discriminatory basis to all carriers throughout the nation, inherently reflect true need for numbers without complicated state-by-state variations.

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<sup>16</sup> See VoiceStream Comments at 11-13.

<sup>17</sup> See, e.g., AT&T Comments at 7; Bell Atlantic Comments at 8; BellSouth Comments at 7; CompTel Comments at 5-6; GTE Comments at 2-9; Nextlink Comments at 7; PCIA Comments at 12-13; SBC Comments at 11-12; Sprint Comments at 9-10; Verizon Comments at 12-14; Winstar Comments at 10-11; WorldCom Comments at 3.

<sup>18</sup> See, e.g., Joint Comments of the Consumer Advocates at 13; Missouri Comments at 2-3; New Hampshire Comments at 3; Pennsylvania Comments at 4; California PUC Comments at 2-3.

<sup>19</sup> See *id.*

<sup>20</sup> See, e.g., PCIA Comments at 2-6.

#### **IV. THE FCC SHOULD ADOPT A WIRELESS TRANSITION PLAN FOR NUMBER POOLING THAT MIRRORS THE WIRELINE PLAN AND BEGINS NO SOONER THAN JULY 2003**

In its Report and Order, the FCC concluded that wireless carriers must participate in number pooling. In its comments, VoiceStream urged the FCC to delay any initiation of a number pooling implementation period for eight months after November 24, 2002, which will be after the industry “quiet period” during the year-end holiday sales period and after the new Number Pooling Administrator and NANPA have had an opportunity to work with each other, the industry, and state commissions.<sup>21</sup> VoiceStream also demonstrated in its comments that any implementation transition plan must be based on the same criteria the FCC used to establish the wireline transition period.<sup>22</sup>

Numerous commenters agree with VoiceStream and urge the FCC not to require CMRS carriers to participate in pooling immediately upon expiration of the LNP forbearance period.<sup>23</sup> Although some commenters ask the FCC to require wireless carriers to implement number pooling immediately upon implementation of number porting, none of these commenters have provided a sufficient justification for requiring a flash-cut implementation of number pooling.<sup>24</sup>

Some commenters suggest that flash-cut implementation will significantly extend the life of the NANP.<sup>25</sup> However, these commenters do not explain how immediate flash-cut

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<sup>21</sup> See VoiceStream Comments at 13-16.

<sup>22</sup> See *id.*

<sup>23</sup> See, e.g., AT&T Comments at 9-10; Bell Atlantic Comments at 8-9; BellSouth Comments at 9-11; CTIA Comments at 12-17; GTE Comments at 9-10; Nextel Comments at 5-6; PCIA Comments at 13-15; Sprint Comments at 10-14; U S West Comments at 5-6; Verizon Comments at 23-24.

<sup>24</sup> See, e.g., Ad Hoc Comments at 6-8; California PUC Comments at 6-9; GSA Comments at 6-8, Joint Comments of the Consumer Advocates at 6, 18-21; Maine PUC Comments at 5-7; Missouri PUC Comments at 3; New Hampshire PUC Comments at 4-5; Pennsylvania PUC Comments at 6-8; Time Warner Comments at 6-7; Winstar Comments at 11-12.

<sup>25</sup> See, e.g., Ad Hoc Comments at 7-8; California PUC Comments at 8-9; Maine PUC Comments at 5; Missouri PSC Comments at 3; New Hampshire PUC Comments at 4-5; Pennsylvania PUC Comments at 7-8.

implementation will significantly extend the life of the NANP, or provide any support for their claims.<sup>26</sup> VoiceStream submits that wireless participation in number pooling will not significantly extend the life of the NANP because wireless NXXs typically serve geographic areas of multiple ILEC rate centers (but less than an entire NPA), particularly in densely populated areas where rate centers have smaller footprints, and, thus, achieve higher utilization rates. Moreover, the FCC's new rules will ensure that wireless carriers, like all carriers, have relatively high utilization rates by November 24, 2002. Therefore, there is no justification to reject a reasonable implementation period simply in the hopes that a flash-cut implementation might extend the life of the NANP. In fact, a staggered implementation plan would give the FCC and the states an opportunity to review wireless carrier utilization rates under the new rules to determine if the pooling proposal should be modified or if it is still necessary for wireless carriers.

Other commenters suggest that a reasonable transition period is unnecessary because wireless carriers will have had sufficient notice that they must implement number portability and number pooling.<sup>27</sup> However, none of these commenters provide any explanation as to why wireless carriers are not entitled to the same staggered implementation period as wireline carriers, or indeed why a staggered implementation period is not necessary or desirable.<sup>28</sup> As the FCC has found with respect to wireline carriers, a staggered implementation schedule is necessary because an overload of

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<sup>26</sup> In fact, studies by the NANPA with North American Numbering Council member participation in early 1999 indicated that this variable would have a negligible effect on the ultimate date of NANP exhaust.

<sup>27</sup> See, e.g., California PUC comments at 6-8; Joint Comments at 8-20; Missouri PSC Comments at 3; New Hampshire PUC Comments at 4-5; Pennsylvania PUC Comments at 6; Time Warner Comments at 6; Winstar Comments at 11-12.

<sup>28</sup> See, e.g., Ad Hoc Comments at 6-8; California PUC Comments at 6-9; GSA Comments at 6-8; Joint Comments of the Consumer Advocates at 6, 18-21; Maine PUC Comments at 5-7; Missouri PUC Comments at 3; New Hampshire Comments at 4-5; Pennsylvania Comments at 6-8; Time Warner Comments at 6-7; Winstar Comments at 11-12.

the telecommunications network may cause network disruptions when carriers' Service Control Points ("SCPs") capacity has been depleted.<sup>29</sup> Moreover, NeuStar, Inc. has already informed the FCC that the timeframe for completion of the necessary administrative work to enable an NPA to be ready to pool is at least three months.<sup>30</sup> Finally, a staggered roll-out will provide carriers time to upgrade or replace SCPs and other components of their network, as necessary, if the increased volume of ported numbers as a result of pooling requires them to do so. For these and other reasons, the FCC concluded that a staggered implementation schedule is necessary to ensure that the resources of the Pooling Administrator are not strained and that implementation is undertaken smoothly. The same reasons apply to wireless carriers, and none of the commenters who advocate flash-cut implementation for wireless carriers have demonstrated, or indeed could demonstrate, otherwise.

Perhaps equally as important, none of the commenters who urge implementation of number pooling immediately upon expiration of the LNP forbearance period have addressed the substantial risks that would arise from implementing pooling during the annual "quiet period" at the same time that all carriers will be working with both a new NANPA and National Pooling Administrator.<sup>31</sup> The risks of implementing number pooling during this time are substantial, and these risks outweigh any benefits that allegedly could be gained from immediate implementation, as VoiceStream, CTIA, PCIA, Verizon and others explained in their comments.<sup>32</sup> Again, there will be an opportunity for the FCC and the states to recalibrate, based on the wireless industry's actual

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<sup>29</sup> Report and Order at ¶ 159.

<sup>30</sup> *Id.*

<sup>31</sup> See, e.g., Ad Hoc Comments at 6-8; California PUC Comments at 6-9; GSA Comments at 6-8, Joint Comments of the Consumer Advocates at 6, 18-21; Maine PUC Comments at 5-7; Missouri PUC Comments at 3; New Hampshire Comments at 4-5; Pennsylvania Comments at 6-8; Time Warner Comments at 6-7; Winstar Comments at 11-12; WorldCom Comments at 4-5.

<sup>32</sup> See, e.g., VoiceStream Comments at 13-16; CTIA Comments at 12-18; PCIA Comments at 13-15; Verizon Comments at 23-24.

performance, on the need for wireless carriers to participate in number pooling as currently planned. Because the record does not contain any justification for a flash-cut implementation of number pooling, VoiceStream continues to believe that the FCC should delay initiation of number pooling for a minimum of eight months after November 24, 2002, and adopt a staggered implementation schedule for wireless carriers that mirrors the wireline schedule. The FCC ought to evaluate wireless carriers' utilization performance under the new rules and the then current market conditions to adjust the implementation schedule as the prevailing circumstances dictate.

## **V. THE FCC SHOULD REJECT MARKET-BASED NUMBER ALLOCATION SCHEMES**

Twice the FCC has asked for comment in this proceeding on market-based number allocation schemes. The comments that the FCC has received on this issue reflect truly universal opposition to market-based number allocation schemes, including opposition from the states, ILECs, CLECs, wireless carriers and end users.<sup>33</sup> In fact, not one commenter supported the adoption of a market-based number allocation scheme at this time.<sup>34</sup> VoiceStream urges the FCC not to discount the significance of such universal opposition from all types of commenters to market-based number allocation schemes.

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<sup>33</sup> See, e.g., Second Century Comments at 1-6; Ad Hoc Comments at 8-14; ALTS Comment at 8-9; AT&T Comments at 10-13; Bell Atlantic Comments at 9-11; BellSouth Comments at 13-16; CompTel Comments at 6-8; Cox Comments at 5-8; GSA Comments at 8-9; GTE Comments at 10-11; MediaOne Comments at 7-8; Joint Comments of the Consumer Advocates at 23-30; Missouri PSC Comments at 3-5; Nextel Comments at 6-7; Nextlink Comments at 12-15; PCIA Comments at 16-22; RCN Telecom Services Comments at 2-4; RICA Comments at 1-7; SBC Comments at 14-17; Time Warner Comments at 7-8; USTA Comments at 6; Verizon Comments at 24-27; Winstar Comments at 13-21; WorldCom Comments at 5-20.

<sup>34</sup> Cf. California PUC Comments at 9-12 (identifying a number of difficulties the FCC must resolve to make a pricing scheme work and urging the FCC "to consider carefully whether the predicable costs associated with the anticipated efficiencies of charging carriers for numbers, on balance, will benefit the public. Only if the answer to that question is 'yes' should the Commission proceed with a pricing scheme.").



The record demonstrates not only that the FCC lacks the statutory authority to adopt a market-based number allocation scheme,<sup>35</sup> but also that such schemes would not improve the efficiency with which carriers utilize numbering resources.<sup>36</sup> Perhaps more importantly, market-based number allocation schemes would introduce substantial new problems into the current system for numbering administration, and impose significant additional administrative burdens, costs that will be passed on to subscribers and insidious numbering arbitraging schemes, without appreciable public interest benefits.<sup>37</sup> Based on this demonstration, the FCC should reject the concept of market-based number allocation schemes for numbering resources.

#### **VI. THE FCC SHOULD REFUSE TO ALLOW ILECs TO SUBSIDIZE THEIR NUMBER POOLING COSTS THROUGH INTERSTATE ACCESS CHARGES**

VoiceStream joins those commenters who urge the FCC not to fold more subsidies into access charges, and strongly agrees that it would be inappropriate to allow ILECs to subsidize their number pooling costs through interstate access charges.<sup>38</sup> Subsidization of ILEC number pooling costs through interstate access charges would not be competitively neutral, nor would it be

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<sup>35</sup> See, e.g., Second Century Comments at 2-5; Ad Hoc Comments at 8-14; AT&T Comments at 10-13; Bell Atlantic Comments at 10-11 (questioning authority); BellSouth Comments at 13; CompTel Comments at 6-8; Cox Comments at 5-6; GTE Comments at 10-11; MediaOne Comments at 7 (questioning authority); Joint Comments of the Consumer Advocates at 30 (questioning authority); Nextlink Comments at 12-15; PCIA Comments at 16-18; SBC Comments at 15-16; USTA Comments at 6; Verizon Comments at 25; Winstar Comments at 13-17.

<sup>36</sup> See, e.g., Second Century Comments at 1-6; Ad Hoc Comments at 8-14; ALTS Comment at 8-9; AT&T Comments at 11; Bell Atlantic Comments at 9-10; BellSouth Comments at 14-16; CompTel Comments at 6-8; Cox Comments at 6-8; GSA Comments at 8-9; GTE Comments at 10-11; MediaOne Comments at 7-8; Joint Comments of the Consumer Advocates at 23-30; Missouri PSC Comments at 3-5; Nextel Comments at 6-7; Nextlink Comments at 12-15; PCIA Comments at 18-22; RCN Telecom Services Comments at 2-4; RICA Comments at 1-7; SBC Comments at 14-17; Time Warner Comments at 7-8; USTA Comments at 6; Verizon Comments at 24-27; Winstar Comments at 17-21; WorldCom Comments at 5-20.

<sup>37</sup> See, e.g., *id.*

<sup>38</sup> See, e.g., Ad Hoc Comments at 17; CompTel Comments at 8-9; WorldCom Comments at 20-21.

consistent with the 1996 Act. For example, Section 254 of the 1996 Act prohibits implicit support mechanisms and requires all universal service support to be explicit.<sup>39</sup> Accordingly, the FCC should not include any additional implicit support mechanisms for number pooling within interstate access charges.

The FCC recently took some important steps towards explicit universal service mechanisms and cost-based interstate access charges in its decision to adopt the Modified CALLS Proposal.<sup>40</sup> One of its primary goals in adopting the Modified CALLS Proposal was to determine the appropriate level of interstate access charges and convert implicit subsidies in interstate access charges into explicit, portable, and sufficient universal service support.<sup>41</sup> As such, it is particularly important that the FCC not take a major step backwards by now allowing ILECs to recover the costs of number pooling through an implicit support mechanism added to interstate access charges. VoiceStream urges the FCC not to allow ILECs to recover their costs of number pooling through interstate access charges.

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<sup>39</sup> See 47 U.S.C. §254(b)(5); CompTel Comments at 8-9.

<sup>40</sup> See *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, Sixth Report and Order in DD Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, and Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193 (rel. May 31, 2000) ("CALLS Order").

<sup>41</sup> See *id.* at ¶26.

## CONCLUSION

For the reasons stated above, VoiceStream urges the Commission to (1) rely on the proposed MTE Worksheet procedure rather than arbitrary percentage utilization thresholds to evaluate applications for growth codes, (2) focus on utilization levels at specific rate centers when determining eligibility for growth codes, (3) retain the FCC's statutory authority over eligibility requirements for growth codes, (4) adopt a phased transition schedule for wireless implementation of number pooling that mirrors the schedule for wireline carriers and avoids the year-end holiday sales "quiet period" (as well as the confluence of the introduction of wireless number portability, a new Number Pooling Administrator, and possibly a new NANPA), (5) reject market-based number allocation schemes, and (6) refuse to allow ILECs to subsidize their number pooling costs through interstate access charges.

Respectfully submitted,

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June 9, 2000

## **CERTIFICATE OF SERVICE**

I, Tracey Sorenson, hereby certify that on this 9th day of June, 2000, I have caused a copy of the foregoing "Reply Comments of VoiceStream Wireless Corporation" to be hand delivered to the following:

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